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What We're Doing in Nicaragua

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A Makeshift Policy, Leading to War

Last week, there was a lot of flip-flopping on the floor of the U.S. Senate.

Literally within hours of voting down every attempt by Sen. Edward Kennedy, Sen. Christopher Dodd, myself and others to stop President Reagan's "covert" support of rebels against the Sandinista regime in Nicaragua, including a prohibition on the use of American money for terrorism, the Senate overwhelmingly called on the president to stop mining Nicaragua's harbors.

The flip-flop was touched off by "revelations" in the press that, under CIA direction and control, anti-Sandinista insurgents, assisted by Latin American agents of the CIA, have been planting mines in the principal Nicaraguan harbors.

Senators who two days earlier had been attacking opponents of the covert action program for "undermining" the president's policy suddenly denounced the mining as contrary to international law. Some even labeled it an act of war. There were furious criticisms of the administration and the CIA for not making the mining operation known to the Senate before the earlier votes that give the president a free hand to continue substituting covert action and military pressure for a foreign policy in Central America.

The administration tried to stave off a reaction in Congress by claiming the mining was a permissible act of "collective self-defense" under the Rio Treaty—although the insurgents are not a party to the treaty, and the United States is itself not under attack.

Some officials defend the mining as a valuable "harassment"—now the official justification for the whole secret war—supplementing military attacks inside Nicaragua by insurgents based in neighboring Costa Rica and Honduras. Others even go all the way back to the initial, now discredited, rationale for the program and argue that the mining helps interdict the flow of arms from Nicaragua to anti-government rebels in El Salvador.

The State Department did its bit by issuing a sophomoric legal opinion justifying the mining under international law and asserting a U.S.

right to reject the jurisdiction of the World Court, where Nicaragua was lodging a complaint. It makes this claim even though in 1946 the United States accepted compulsory jurisdiction of the World Court in international disputes in which it is involved. This is the court where we sued Iran for holding the hostages in 1980—and where they accepted jurisdiction.

Nervous at the prospect of going home to face their constituents over the Easter recess, senators jumped with relief at the opportunity to cast a safe vote calling on the president to stop the mining. It was easy to explain the switch by claiming they were unaware of the mining when they went down the line the week before in vote after vote supporting the president—although the fact of the mining was common knowledge to many senators.

Most members of the Select Committee on Intelligence, the committee responsible for watching over CIA activities and for keeping the rest of the Senate informed, are embarrassed and angry about not being fully briefed about the mining operation, especially the role of the CIA agents in directing the operations from ships just outside Nicaragua's 12-mile limit.

The furor over the mining, the conflicting and feeble administration justifications and the question of the oversight by the Senate Intelligence Committee raise a serious issue about Congress' ability to participate in one of the most important foreign policy issues facing this country. When members return from the Easter recess, we are going to have to look hard at the president's Central America policy and whether we really know what is going on.

The mining episode raises three basic questions:

1. Was there a mistake by the Senate Intelligence Committee, which led the Senate to vote for the president's policy in ignorance, or did this reveal a serious structural problem about how the Intelligence Committee does its job?

A view I have long held is that Intelligence Committee members, all of whom have heavy responsibilities on other committees, are stretched too thin. Frankly, we depend too much on staff initiative, hurried briefings often without adequate preparation, and information passed around among members as we gather in the Senate to vote. As difficult as it will be, ways must be found to enable committee members to be released from at least some of their other obligations.

In my dealings with the CIA as a member of the Intelligence Committee, I have found its officials will respond truthfully to any direct, unambiguous question, but they rarely volunteer controversial matters. Unfortunately, even though the Intelligence Committees in both the Senate and the House have good bipartisan records in protecting sensitive intelligence information, there still remains a legacy of reserve and suspi-

cion among many in the intelligence agencies. The mining flap clearly illustrates this problem. It cannot really be overcome by staff however active and diligent they are; it will take steady, intensive involvement by the senators on the committee.

I do not believe there was a deliberate effort by the CIA to keep anything about the mining or the whole covert action from the committee. Nor did the committee, at least as a whole, purposely turn a blind eye toward an activity it preferred "not to know" about. Rather, the gaffe over informing the Intelligence Committee was a combination of the CIA's failure to accept an affirmative responsibility to keep the Intelligence Committee fully and currently informed about any significant intelligence matter whether or not the information is requested, and the inability of harried senators rushing into a briefing, then off to another committee hearing, to get as deeply into issues as effective oversight requires.

2. Is there something uniquely negative about the mining operation that justifies a Senate vote against it, while supporting the rest of the covert action program, or is the whole program flawed?

I first publicly stated my opposition to the covert action program in April 1983, after a trip to Central America for the Intelligence Committee. On my return, I also prepared a classified report to the Intelligence Committee detailing the rapid expansion and transformation of the program from a small-scale operation, aimed at curbing the supply of arms to the leftist guerrillas in El Salvador, to a major campaign against the Nicaraguan government with unclear objectives and no obvious stopping point.

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Any senator who thinks the mining operation is somehow unique and different in kind from all the other military activity undertaken as part of the covert action program hasn't learned what is going on down there. Mining the harbors of Nicaragua is a logical consequence of a program aimed at conducting an undeclared secret war by proxy against a sovereign nation with whom we maintain full diplomatic relations. It is no wonder CIA officials are stunned at the outcry over the mining — they have every right to be perplexed at the Senate's refusal to countenance mining when it has gone along with everything else.

I said in April 1983, again in November 1983, and most recently in March 1984, that the entire covert activity is illegal under the Charter of the Organization of American States, the United Nations Charter, and the Boland Amendment of December 1982. Not only is it illegal; it isn't even effective, because it hardens the grip of the radicals and extremists in Nicaragua and builds a legacy of fear and hatred among the Nicaraguan people toward the United States. Not least, it is grossly immoral and offends the traditions of respect for law, toleration of diversity and support for human rights that have made America unique.

Everything that is wrong about the mining operation—its illegality, its indiscriminate violence, its use of terror against noncombatants, its harmful impact on American capacity to use its influence to promote peace, its coarsening and brutalization of American foreign policy—is equally true of much of the entire covert action program.

No one should be deceived by the showy Senate vote against the mining. Many of those who voted for the resolution condemning the mining hope that things will calm down over the recess. This is what the administration hopes for too. Once the story dies from the headlines, things can return to normal. For some, the outrage over the mining is political.

3. *Where is the president taking us?*

I am not convinced the administration and its Senate supporters really know where this policy is leading, or how to shift from fighting to negotiating if that opportunity arises. All administration officials from the president on down talk about supporting the Contadora countries and the 21 points, but what they do is intensify military pressure. There are diplomatic proposals to limit foreign bases and advisers, to provide for joint border patrols, to allow for on-site inspection of military facilities. Nicaragua has said it will negotiate.

There is a strange day-by-day makeshift quality about the whole Central America policy, including the covert action. My sense is that decisions are made something like the old cliff-hanger serials where the heroine is left on the railroad track, tied hand and foot. In the next reel, we will figure out how the hero is going to get there in time to save her.

If the Senate does not stop this train soon, I believe it is going to end with the United States directly engaged in combat in El Salvador, Honduras and Nicaragua. Neither the president nor Congress has any mandate from the American people to allow that to happen.

What Congress does over the next weeks and months could determine whether America continues to slide toward direct involvement, with American combat forces, in a widening regional war, or turns toward a search for a political settlement in concert with Mexico, Panama, Venezuela, Colombia and the other states of the area.

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By Gamble for The Florida Times-Union